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May 17, 2013

VIA EMAIL

bzasubmissions@dc.gov

Lloyd Jordan, Chairperson
D.C. Board of Zoning Adjustment
441 4th Street, NW, Suite 200 South
Washington, DC 20001

Re: BZA Application 18543
Yves Balcer, 5063 Overlook Road NW

Dear Chairman Jordan and members of the Board:

Earlier this week I filed a proposed covenant to be recorded in connection with this case. The covenant is intended to address the concerns of the neighbors as expressed at the BZA hearing. The three abutting neighbors have requested some minor changes to the covenant to which my client has agreed. The revised covenant is attached. With these changes, the neighbors no longer object to the application.

I look forward to the Board's action on this application.

Sincerely,



Allison C. Prince
Director

ACP:ph

Certificate of Service

I hereby certify that I sent a copy of the foregoing document to the following addresses on May 17, 2013 by first class mail:

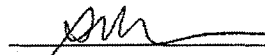
Palmer and Mary Foreit
5069 Overlook Drive, NW
Washington DC 20016

Nan Wells and Mark Leone
5057 Overlook Drive
Washington DC 20016

Gary Garafalo
5132 Rockwood Parkway
Washington DC 20016

ANC 3 D
PO Box 40846 Palisades Station
Washington DC 20016

George Keys
Jordan and Keys
910 17th Street NW - Suite 317
Washington, D.C. 20006



Allison Prince

DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS AND RESTRICTIONS (this "Covenant") is made and entered into this ____ day of _____, 2013 by YVES BALCER, TRUSTEE OF THE YVES BALCER QUALIFIED PERSONAL RESIDENCE TRUST ("Grantor").

RECITALS:

WHEREAS, Grantor is the owner in fee simple of that certain real property known as Lot 6 in Square 1430 of the District of Columbia, more particularly described in Exhibit A, attached hereto and by this reference made a part hereof (hereinafter referred to the "Subject Site");

WHEREAS, Lots 4, 9 and 808 in Square 1430 comprise the only parcels of real property that abut the Subject Site (the "Adjacent Lots");

WHEREAS, the Subject Site is improved with a single family house and an accessory one-story structure in the rear yard (the "Pool House") shown on the site plan in Exhibit B;

WHEREAS, Grantor desires to construct an enclosed connecting passageway (the "Connector") between the single family house and the Pool House;

WHEREAS, Grantor is seeking approval of the Connector from the District of Columbia Board of Zoning Adjustment ("BZA") pursuant to Grantor's application for special exception relief in BZA Case No. 18543 (the "Application");

WHEREAS, L. Palmer and Mari. T. Foret, 5069 Overlook Drive, N.W., Nan S. Wells and Mark Leone, 5057 Overlook Drive, N.W. and Gary and Jeanne Garofalo, 5132 Rockwood Parkway, N.W. (the "Adjacent Owners") are each an owner of one of the lots comprising the Adjacent Lots and have filed their opposition to the Application;

WHEREAS, Grantor, for the benefit of the Adjacent Lots desires to limit future expansion of, and restrict the use of, the Pool House otherwise permitted by Title 11 of the District of Columbia Municipal Regulations (the "Zoning Regulations"); and

WHEREAS, in exchange for the Grantor's agreement to enter into this Covenant, the Adjacent Owners shall withdraw their opposition to the Application and further agree to refrain from challenging, at the BZA or the Department of Consumer and Regulatory Affairs ("DCRA"), the continued existence and use of the Pool House as restricted by this Covenant.

NOW, THEREFORE, in consideration of these premises and for other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, Grantor, for itself, its successors heirs, executors, administrators and assigns, does hereby covenant and declare that the Subject Site is now and hereinafter shall be held, transferred, sold and conveyed subject to the following covenants for the benefit of the Adjacent Lots:

1. Grantor shall not alter any of the physical dimensions of the Pool House existing as of the date of this Covenant, including without limitation, height, lot occupancy, and gross floor area (as such terms are defined in § 199 of the Zoning Regulations); provided, however, that nothing in the foregoing covenant shall prevent Grantor from altering the Pool House in a manner that reduces its aforesaid physical dimensions.
2. Except for the Connector allowed pursuant to BZA Case No. 18543 granting the Application, with this Covenant being incorporated into and made a condition of said special exception relief, the Pool House shall not be expanded, extended or enlarged beyond the existing building footprint and building envelope.

3. The permitted uses for the Pool House shall be recreational. The Grantor confirms that the Pool House will not be used for sleeping quarters nor will a kitchen or bathroom be installed; this restriction does not apply to the existing shower.
4. In the event the Pool House is destroyed by fire, collapse, explosion, or act of God, then the Grantor shall be entitled to construct a replacement pool house structure within the same building footprint, building envelope and with the same height, lot occupancy and gross floor area as the original Pool House. In the event that a replacement structure is not constructed within five years of the date of the destruction, this Covenant shall automatically terminate and shall be of no further force and effect.
5. The covenants contained herein are and shall be construed as real covenants and shall run with the land in perpetuity and shall bind the Grantor, its successors, heirs, executors, administrators and assigns, and such covenants shall not be binding upon any party not having a property interest in the Subject Site.
6. Any amendment to or modification of this Covenant shall require the written consent of the Grantor and all of the Adjacent Owners, such approval not to be unreasonably withheld, conditioned, or delayed.
7. In the event that Grantor or any successor, heir, executor, administrator, or assign does not construct the Connector, then this Covenant shall have no force or effect.
8. Any Adjacent Owners, their successors, heirs, executors, administrators and assigns, in addition to all rights of enforcement or otherwise they currently have before the BZA regarding this Covenant, shall have the right to enforce by a proceeding at law or in equity the provisions hereof and may enforce the covenants herein by injunctive relief.
9. This Restrictive Covenant shall be governed by the laws of the District of Columbia.

IN WITNESS WHEREOF, YVES BALCER, TRUSTEE OF THE YVES BALCER QUALIFIED PERSONAL RESIDENCE TRUST, has caused these presents to be executed on the date set forth above.

Yves Balcer, Trustee

CITY OF WASHINGTON,)
)
DISTRICT OF COLUMBIA) ss

On this ____ day of _____, 2013, before me, a Notary Public in and for the aforementioned jurisdiction, personally appeared Yves Balcer, Trustee of the Yves Balcer Qualified Personal Trust, personally well known to me or satisfactorily proven to me to be the person whose name is subscribed to the foregoing instrument, acknowledged the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My Commission Expires: